REMARKS

Claims 3-7 and 15-17 are pending. Claims 15-17 have been amended herein to further distinguish over the art of record. Applicant filed a Notice of Appeal on April 21, 2005, but after further consideration of the last Office Action of October 21, 2004, Applicant has determined that he wishes to make further amendments to the claims and obtain further consideration of the amended claims by the Examiner before proceeding with a Brief on Appeal, if necessary. The Applicant is hopeful of avoiding the Appeal based upon the amendments made herein and reconsideration by the Examiner based upon the following arguments.

The Examiner has rejected the pending claims on "obviousness" based on the teachings of Scroggie et al (6,014,634) in view of De Lapa (5,822,735). Scroggie represents an online targeting and distribution model for electronic coupons and De Lapa represents a method of surveying members through mail-in questionnaires to, "...determine whether a coupon is appropriate rather than attempting to locate coupons which correlate with particular answers rendered..."

The rejection assumes that if De Lapa can survey people by mail and get a purchase value, then Scroggie could apply that information in some online fashion to generate a "dynamic coupon" online. This may be true, but it does not accurately represent the Applicant's method. "Dynamic coupon creation" (represented by the combination of Scroggie/De Lapa methodologies) cannot account for the dynamic creation of user-defined offers. This concept remains unique.

Dynamic Coupons vs. Dynamic Offers - The problem of distinction:

Generally, this issue relates to the differences in how each business method acquires and uses information provided by users to select, target, or create dynamic coupons. Coupons, however, are comprised of many parts. Scroggie claims to have a "dynamic coupon system" though a number of crucial components of the coupon, such as the offer itself, is not dynamic. By contrast, the Applicant identifies a "dynamic offer system" where the user literally creates unique offers by the purchase values they enter into the system.

Scroggie uses customer-supplied information (whether derived through survey questions or not) to match users with a multiplicity of pre-defined "static" offers resident in the system. Though Scroggie speaks to the "dynamic creation" of electronic coupons, they do not refer to the dynamic creation of offers (e.g. $X off if you spend $Y (X & Y being variables – X controlled by a merchant and Y controlled by the user). Where the **appearance** of the final coupon may be dynamic to some degree changing from coupon to coupon (e.g. Scroggie can add a user name above the offer or print today's date and time – or even print multiple related coupons on the same page), the discounts and minimum spending requirements in the Scroggie system are fixed, static, and inflexible; they are predetermined before the user interacts with the system. This is evident by the fact that Scroggie does not claim to let users create any discount value they want on an offer by offer basis – but the Applicant's method does.

Nothing relating to the De Lapa mail-in surveying methodology speaks to the ability to customize offers. In fact, the role of the survey questioning according to De Lapa is to, "...determine whether a coupon is appropriate rather than attempting to locate coupons which correlate with particular answers rendered..."

Both systems can provide dynamic data based on information, yet only one, (the Applicant's) specifies the use of future purchase values as information that directly affects a key component of the coupon, namely, the offer itself: the value of the discount and the minimum spending requirement the user commits to.

One way of looking at it is to describe the Scroggie/De Lapa combination as a survey and coupon presentation method that attempts to more accurately deliver pre-defined offers in a database based on the answers supplied by users. Scroggie can ask any question imaginable for better offer targeting, but ultimately the coupons presented will be a selection of predetermined offers that come closest to matching the questions answered. We recognize that this methodology is obvious.

As an example, if Scroggie asks users to describe what they are buying and how much they want to spend, their system may or may not find a coupon for the exact product or for the amount the user wants to spend. It will present coupons that are "closest" to the desired match (e.g. a different brand of soap or a flat dollar off for some level of spending that is close but not equal to what the user requests). By contrast the Applicant's system would create a unique, non-product specific offer for EXACTLY the amount indicated by the user by

VARYING the discount offered in accordance with variable volume purchasing rules dictated by the merchants. There is no similarity between the two methods, the later remains as a novel, unobvious business method.

To say the Applicant's system would have been obvious to Scroggie, is to say that Priceline's "name your price" model of purchasing tickets online was obvious to any company selling travel tickets. Surveys have been around long before the Internet. Since the process of getting users to "name your price" is just another form of surveying, then any company that could sell tickets online could ask people any question they want - one of which might be, "what do you want to pay?". But, Priceline's business method is not as simple or obvious as that, and neither is the Applicant's.

Like Priceline's method, the Applicant's method allows users to create their own offer. But, rather than having to commit to an immediate online purchase with a credit card and an undetermined travel reservation to qualify for the special rate, the Applicant's method allows users to negotiate a custom savings **in the event that they complete the transaction offline** at the location specified and as long as the total purchase amount is equal to or greater than the amount they indicated online when making the offer. If a user wants to create an offer that allows them to save some amount of money if they spend exactly $111, they can do that in the Applicant's system – and not in any conceivable Scroggie/De Lapa/Deaton/Priceline combination.

The Applicant's process empowers its users by providing iterative flexibility in the adjustment of their spending patterns to maximize the savings potential on any purchase. The user can review several different spending levels and associated discount offers, edit, revise and tailor the best-fit for their specific spending needs prior to printing the best case specifically for the purchasing need at hand. The Applicant's method fosters a true, real-time negotiation of a conditional offer between buyer and seller based on immediate user value. This methodology goes well beyond the scope of delivering dynamic-appearance "close match" coupons based on survey questions and historical purchase patterns.

In view of the above noted amendments and remarks, reconsideration and allowance of pending claims 3-7 and 15-17 are respectfully solicited.

Respectfully submitted,

Leonard Tachner
Attorney for the Applicant
Registration No. 26,344
Dated: 7-11-05

LT/jf
(949) 752-8525 Telephone
(949) 955-2415 Telefax

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Services as First Class mail in an envelope addressed to:
MAIL STOP Rce
COMMISSIONER FOR PATENTS
U.S. PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, Virginia 22313-1450
On 7-11-05 (date)
LEONARD TACHNER, Registered Rep.
(Signature) 7-11-05 (date)